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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,687	10/06/2003	Thomas J. Gieseke	82996	5335

7590 03/23/2004

Office Of Counsel, Bldg 112T  
Naval Undersea Warfare Center  
Division, Newport  
1176 Howell Street  
Newport, RI 02841-1708

EXAMINER
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JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/679,687

Applicant(s)

GIESEKE ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-8,10 and 12-20 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,9 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/06/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for deploying said detecting means (claims 6 and 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The means for deploying the detecting means (claims 6 and 7) is unsupported in the written specification, as originally filed.

3. Claims 6-7, 12-13, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 6 and 7, it is not understood as to what structure is intended to correspond to the claimed function of “means for deploying said detecting means”? In claim 19, it is not understood as to how one may perform the step of sinking the hydrodynamic module to the bottom of the body of water when in the previous step (see claim 18) the hydrodynamic module has been recovered from the body of water.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 6, 14, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers.

Myers discloses a device for countering an underwater target comprising:

- |                                     |                  |
|-------------------------------------|------------------|
| a) a module;                        | 1                |
| b) at least one propulsor;          | 12, 13           |
| c) a gun; and                       | 88 or [7, 9, 98] |
| d) detecting the underwater target. | 107 or 35        |

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8, 10, 12, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Kirschner et al..

Myers applies as previously recited. However, undisclosed is a source of clearing the gun barrel via compressed air. Kirschner et al. teach a source of clearing the gun barrel via compressed air, 104, 106, 108. Applicant is selecting and assembling a means known in this art to clear an underwater gun barrel prior to firing and putting it to use as it is already commonly known to be used in this art. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Kirschner et al. to the Myers device and have an underwater gun barrel that is cleared by compressed air.

8. Claims 1 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams.

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Adams discloses a device for countering an underwater target comprising:

- a) a module; 2, 3
- b) at least one propulsor; and 4, 5
- c) a gun. 8

9. Claims 1, 4, 6, 14, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillenbrand.

Hillenbrand discloses a device for countering an underwater target comprising:

- a) a module; 12
- b) at least one propulsor; 30
- c) a gun; and figs. 5, 6, 7
- d) detecting the underwater target. 25 or 51

10. Claims 2-3, 5, 9, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 7 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

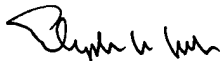
12. Claim 19 is too indefinite in its current form to make a determination regarding patentable subject matter.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Korolenko, Wheaton, Drimmer, Burt, and Lawrence disclose other state of the art underwater devices.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ